

(1) Notify the appropriate local educational agency or intermediate educational unit in which the child resides; and

(2) Convene, with the approval of the family, a conference among the lead agency, the family, and the local educational agency or unit at least 90 days before the child's third birthday or, if earlier, the date on which the child is eligible for the preschool program under part B of the Act in accordance with State law, to—

(i) Review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(ii) Establish a transition plan; and

(c) If the State educational agency, which is responsible for administering preschool programs under part B of the Act, is not the lead agency under this part, an interagency agreement between the two agencies to ensure coordination on transition matters.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1478(a)(8))

NOTE 1: Among the matters that should be considered in developing policies and procedures to ensure a smooth transition of children from one program to the other are the following:

- The financial responsibilities of all appropriate agencies, consistent with §§ 303.523 and 300.152.
- The responsibility for performing evaluations of children (see §§ 303.322 and 300.531).
- The development and implementation of an individualized education program ("IEP") or an individualized family service plan ("IFSP") for each child, consistent with the requirements of law (see § 303.344(h) and sections 613(a)(15) and 614(a)(5) of the Act).
- The coordination of communication between agencies and the child's family.
- The mechanisms to ensure the uninterrupted provision of appropriate services to the child.

NOTE 2: While the transition requirements of the Act and this section pertain to children who are eligible for preschool programs under part B, States are encouraged to adopt policies and procedures to facilitate a smooth transition of other children who are exiting the part H program as well.

#### SPECIFIC APPLICATION REQUIREMENTS FOR YEARS ONE THROUGH FIVE AND THEREAFTER

##### **§ 303.149 Application requirements for first and second years.**

A State's annual application for the first and second years of participation under this part must contain the information required in §§ 303.141 through 303.148.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1475, 1478(a))

##### **§ 303.150 Third year applications.**

(a) *General.* A State's third year application under this part must contain the following:

(1) The information required in §§ 303.141 through 303.148.

(2) Either—

(i) The information and assurances regarding the statewide system of early intervention services, as required in paragraph (b) of this section; or

(ii) If the State is eligible for a waiver, a request for a waiver, in accordance with the requirements in § 303.151.

(3) Other information that the Secretary may require.

(b) *Adoption of policy on statewide system.* Each third year application must include information and assurances demonstrating to the satisfaction of the Secretary that—

(1) It is the policy of the State to develop and implement a statewide, comprehensive, coordinated, interagency, multidisciplinary system for providing early intervention services to all children eligible under this part and their families;

(2) The policy in paragraph (b)(1) of this section incorporates all of the components of the statewide system of early intervention services that are required under this part; and

(3) Subject to § 303.341(a), the statewide system will be in effect no later than the beginning of the State's fourth year of participation under this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1475(b), 1478(a))

**§ 303.151 Waiver of the policy adoption requirement for the third year.**

The Secretary may award a grant to a State under this part for the third year even if the State has not adopted the policy required in § 303.150(b), if the State, in its third year application, includes a statement requesting a waiver, including—

(a) Information demonstrating that the State has made a good faith effort to adopt a policy that meets the requirements in § 303.150(b)(1) and (b)(2);

(b) The reasons why the State was unable to meet the timeline for policy adoption, and the steps remaining before the policy will be adopted; and

(c) An assurance that, except as provided in § 303.341(a), the policy required in § 303.150(b)(1) and (b)(2) will be adopted and go into effect no later than the beginning of the State's fourth year of participation under this part.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1475(b)(2))

NOTE: An example of when the Secretary may grant a waiver is a situation in which a State's policy is awaiting action by the State legislature, but the legislative session does not commence until after the State's application must be submitted.

**§ 303.152 Fourth year applications.**

A State's application for the fourth year of participation under this part must contain—

(a) The information required in §§ 303.141 through 303.148;

(b) Information and assurances to demonstrate that—

(1) The requirements in § 303.150(b)(1) and (b)(2) are met; and

(2) Subject to § 303.341(a), the statewide system of early intervention services is in effect, or will be in effect no later than the beginning of the fourth year of the State's participation under this part;

(c) Information and assurances required in §§ 303.161 through 303.176; and

(d) Other information that the Secretary may require.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1475(b), 1478(a))

**§ 303.153 States with mandates as of September 1, 1986, to serve children with disabilities from birth.**

(a) Subject to the requirements in paragraph (b) of this section, a State that has in effect a State law, enacted before September 1, 1986, that requires the provision of a free appropriate public education to children with disabilities from birth through age two is eligible for a grant under this part for the first through the fourth year of its participation.

(b) A State meeting the conditions in paragraph (a) of this section must—

(1) Have on file with the Secretary a statement of assurances containing the information required in §§ 303.121 through 303.128;

(2) Submit an annual application for years one through four that contains the information in §§ 303.141 through 303.148;

(3) Meet the public participation requirements in §§ 303.110 through 303.113; and

(4) Provide a copy of the State law that requires the provision of a free appropriate public education to children with disabilities from birth through age two.

(c) In order to receive funds under this part for the fifth and succeeding years, the State must submit an application that meets the requirements in § 303.154.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1475(d))

**§ 303.154 Applications for year five and each year thereafter.**

(a) *Fifth year application.* A State's application for the fifth year of its participation under this part must contain—

(1) The information and assurances required in §§ 303.141 through 303.148 and §§ 303.161 through 303.176;

(2) Information and assurances demonstrating to the satisfaction of the Secretary that the statewide system of early intervention services required in this part is in effect;

(3) A policy that, no later than the beginning of the fifth year of the State's participation, appropriate early intervention services will be available